UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,880	03/12/2007	Guillaume Decugis	MSFT-01240US0	8619

47766 7590 12/01/2009

VIERRA MAGEN/MICROSOFT CORPORATION
575 MARKET STREET, SUITE 2500
SAN FRANCISCO, CA 94105

EXAMINER
KELLEY, STEVEN SHAUN

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
12/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/575,880	DECUGIS, GUILLAUME	
	Examiner	Art Unit	
	STEVEN KELLEY	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 March 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-44* is/are pending in the application.

4a) Of the above claim(s) *2,3,7,8,11-14,16,18,19,22,23 and 28-44* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1,4-6,9,10,15,17,20,21 and 24-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) *2,3,7,8,11-14,16,18,19,22,23 and 28-44* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11-12-07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. This application contains claims directed to the following patentably distinct species; *Species 1*: simultaneously providing audible ringtones while displaying associated graphics information (claims 1, 4-6, 9-10, 15, 17, 20-21 and 24-27), *Species 2*: providing codec information to read graphics information (claims 2-3, 7, 14, 16, 18 and 28-30), *Species 3*: using an interface or phone server to associate graphics information (claims 8, 19 and 31-34), *Species 4*: automatically designating favorites of graphics information (13, 22 and 35-37) and *Species 5*: personalizing graphics information (claims 23, and 38-39) *Species 6*: "parametrizable frame rates" of graphics information (claims 11-12 and 40-41) *Species 7*: data encryption and decryption of graphics information (claims 42-43) and *Species 8*: data compression and decompression of graphics information (claim 44). The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

In a telephone conference with Richard Nebb on November 16, 2009, Applicant has chosen to elect *Species 1* for prosecution on the merits (without Traverse) to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Accordingly, claims 1, 4-6, 9-10, 15, 17, 20-21 and 24-27 are Examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 4-6, 9-10, 15, 17, 20-21 and 24-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear from the written specification as to what an "operating layer" comprises. As this term ("operating layer") is not a standard term in the art and there is no definition of this "layer" or how it relates to any other "layer" in the specification, it is unclear how to make and/or use the invention. Additionally, as the specification repeatedly references prior art software platforms and operating systems, such as the "Series 60" software platform and "Symbian Operating System", which are used in mobile phones and would include features such as "phone server applications" and "background task applications" (and would also include the recited "layers" as discussed above), it is unclear from the written specification what the difference is between these prior art software platforms/operating systems and the instant invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 4-6, 9-10, 15, 17, 20-21 and 24-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 there is no antecedent basis for "the downloaded data", "the screen" and "the operating layer" and the phrase "if need be" is indefinite. In claims 1, 15 and 24-27, the phrase "operating layer of the phone" is unclear and/or inaccurate, as a mobile phone does not have "layers". In claim 15 there is no antecedent basis for "the operating layer". Claims 24-27 all use the phrase "possibly downloaded", which is indefinite. Claims 24-27 also use the phrase "phone server of said layer", which is confusing, as the word "server" is usually associated with a computing device. In claims 9 and 20 the phrase "graphical layers" is unclear.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 4, 6, 9-10, 15, 17, 20-21 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. 2004/0014484 to Kawashima

(hereinafter "Kawashima") in view of U.S. Patent Pub. 2003/0109252 to Prentice et al (hereinafter "Prentice") and either one of U.S. Patent 7,248,677 to Randall et al. (hereinafter "Randall") or U.S. Patent 7,352,997 to Torvinen (hereinafter "Torvinen").

Regarding claim 1, Kawashima teaches a method for downloading ring tones for personalizing mobile phones (see sections [0025] and [0026], which teach downloading ringtones), wherein, in addition to an audio content, the downloaded data comprise a graphical animation content for being displayed on the screen of the mobile phone when the audio content is played on the phone upon reception of an incoming call (see sections [0025] and [0026], which teach downloading display sequence data, see sections [0070] and [0118] which teach downloaded content may be "animations", and see sections [0078] to [0090] which describe Figs. 6-7, which teach setting the ringtone and display information for incoming calls and the process of reading from RAM memory (51) the ringtones and display information when a call comes in).

Although Kawashima must inherently include an application to read the downloaded graphic data (so that it may be displayed), Kawashima does not explicitly teach "an application for reading graphical animations content, and, if need be also for reading audio content, being simultaneously downloaded or having been downloaded beforehand and stored at the operating layer of the mobile phone", as recited.

In an analogous art, Prentice teaches downloading information to a mobile phone, where the simultaneously downloaded information includes a codec program which is used to read the downloaded data. See for example, section [0026], which

teaches "codec executable field 136, which includes an executable coding/decoding file that can be in many formats". See also section [0003] which mentions conventional audio and video codecs.

Therefore, as both Kawashima and Prentice teach downloading information to mobile phones, it would have been obvious to one of ordinary skill in the art to modify Kawashima with the ability to also simultaneously receive a codec (recited "application for reading graphics data") with the downloaded graphics data, in order to properly read and use the data, as is taught by Prentice. Additionally, as Kawashima teaches storing downloaded ringtones and display information in RAM 51, it would have been obvious to also store the received codec in RAM 51, which would be at an "operating layer", as recited.

Although Kawashima may store information at the "operating layer", for completeness, Randall or Torvinen may be added.

As the written specification teaches (and shows in the Figs.) that the instant invention is used in mobile phones employing the Symbian Operating System, this "operating layer" is inherently included in the Symbian OS. The Randall patent (Assigned to Symbian Software Ltd.) which utilizes the Symbian OS (which provides "robust and advanced applications", see column 2) teaches downloading both ringtones and graphics/animations to a mobile phone (see column 9, lines 1-12) which may be used for incoming call processes and the exchange of information between the calling parties. Torvinen also teaches a mobile terminal 202 capable of downloading information, where the mobile terminal is equipped with a "Series 60" software

framework used in conjunction with the Symbian OS (see column 6, lines 51-67). Therefore, as the Symbian OS is capable of downloading ringtones and animations and providing the graphic displays and ringtones before the call is answered, and includes an "operating layer", it would have been obvious to modify Kawashima (as modified by Prentice) with the Symbian OS of Randall or Torvinen, in order to store applications at the "operating layer", in order to provide ringtone and display information before a call is answered, as is conventional.

Regarding claim 15, Kawashima teaches a mobile phone adapted to download ring tone for personalization of mobile phones (see Figs. 6-7 and the description in sections [0078] to [0090], where the CPU 50 is the means which "triggers the reading of graphical animations content upon reception of an incoming call", as recited).

Although Kawashima must inherently include an application to read the downloaded graphic data (so that it may be displayed), Kawashima does not explicitly teach "wherein the operating layer stores an application for reading graphical animations contents", as recited.

In an analogous art, Prentice teaches downloading information to a mobile phone, where the simultaneously downloaded information includes a codec program which is used to read the downloaded data. See for example, section [0026], which teaches "codec executable field 136, which includes an executable coding/decoding file that can be in many formats". See also section [0003] which mentions conventional audio and video codecs.

Therefore, as both Kawashima and Prentice teach downloading information to mobile phones, it would have been obvious to one of ordinary skill in the art to modify Kawashima with the ability to store a codec (recited "application for reading graphical animations content"), in order to properly read and use the stored data, as is taught by Prentice. Additionally, as Kawashima teaches storing downloaded ringtones and display information in RAM 51, it would have been obvious to also store the received codec in RAM 51, which would be at an "operating layer", as recited.

Although Kawashima may store information at the "operating layer", for completeness, Randall or Torvinen may be added.

As the written specification teaches (and shows in the Figs.) that the instant invention is used in mobile phones employing the Symbian Operating System, this "operating layer" is inherently included in the Symbian OS. The Randall patent (Assigned to Symbian Software Ltd.) which utilizes the Symbian OS (which provides "robust and advanced applications", see column 2) teaches downloading both ringtones and graphics/animations to a mobile phone (see column 9, lines 1-12) which may be used for incoming call processes and the exchange of information between the calling parties. Torvinen also teaches a mobile terminal 202 capable of downloading information, where the mobile terminal is equipped with a "Series 60" software framework used in conjunction with the Symbian OS (see column 6, lines 51-67). Therefore, as the Symbian OS is capable of downloading ringtones and animations and providing the graphic displays and ringtones before the call is answered, and includes an "operating layer", it would have been obvious to modify Kawashima (as

modified by Prentice) with the Symbian OS of Randall or Torvinen, in order to store applications at the "operating layer", in order to provide ringtone and display information before a call is answered, as is conventional.

Regarding claim 4, which recites "wherein at each new downloading, the downloaded data comprises an application for reading the graphical animations content and/or audio content", as described above, as Prentice teaches simultaneously transmitting a codec with the downloaded data, each new downloading would include "an application for reading the graphical animations content and/or audio content", as recited.

Regarding claims 6 and 17, which recite "wherein, with the application for reading the graphical content, a background task application is downloaded in the operating layer of the mobile phone, which monitors the notification of an incoming call to a phone server of said layer and activates the reading of the graphical content by the reading application", although Kawashima must inherently include a "background application" to monitor for incoming calls (which would be stored in CPU 50 at an "operating layer"), Kawashima does not explicitly teach this feature. As described above in the rejections of claims 1 and 15, both Randall and Torvinen teach using the Sybian OS in mobile phones. Randall also explicitly teaches monitoring for incoming calls and providing information based on the identification of the calling parties (which would be the recited "phone server application") and also teaches that the Symbian OS provides "robust and advanced applications", as described in column 2. Therefore, as

both Randall and Kawashima teach monitoring for incoming calls (which would be performed by a "background application") and the Symbian OS includes an "operating layer", it would have been obvious to store the "background" application of Kawashima in the operating layer, in order to perform ringtone and graphics functions before a call is answered, as is conventional.

Regarding claims 9 and 20, which recite "wherein the reading application bypasses the graphical layers of the phone for writing directly in the screen memory", as the teachings of Kawashima and Randall provide display data before a call is answered, and the Symbian OS provides for robust applications, it would have been obvious to bypass the "graphical layers", as recited.

Regarding claims 10 and 21, which recite "wherein the reading application uses a mask for not entering into conflict with certain areas for displaying certain icons", as icons such as "signal strength" and "battery level" are constantly displayed on conventional mobile phones, although the references do not explicitly teach displaying these icons, this recited feature would have been an obvious modification to the display of Kawashima as modified by the "robust applications" of the Symbian OS, as above.

Regarding claim 24, Kawashima teaches a method for enabling the reading of at least one personalization content, such as a graphical content or an audio content, upon reception of an incoming call on the mobile phone (see Figs. 6-7 and the description in sections [0078] to [0090]).

Although Kawashima must inherently include a "background application" to monitor for incoming calls (which would be stored in CPU 50 at an "operating layer") and also must contain a "reading application" to read the personalized content (so that it may be displayed), Kawashima does not explicitly teach "a background task application, possibly downloaded in the operating layer of the mobile phone, monitors the notification of an incoming call to the phone server of said layer and activates the reading of the content by the reading application upon the notification of an incoming call", as recited.

In an analogous art, Prentice teaches downloading information to a mobile phone, where the simultaneously downloaded information includes a codec program which is used to read the downloaded data. See for example, section [0026], which teaches "codec executable field 136, which includes an executable coding/decoding file that can be in many formats". See also section [0003] which mentions conventional audio and video codecs.

Therefore, as both Kawashima and Prentice teach downloading information to mobile phones, it would have been obvious to one of ordinary skill in the art to modify Kawashima with the ability to store a codec (recited "reading application" for reading personalized content), in order to properly read and use the stored data, as is taught by Prentice.

Although Kawashima may store information at the "operating layer" (such as in RAM 51 or in CPU 50), for completeness, Randall or Torvinen may be added.

As the written specification teaches (and shows in the Figs.) that the instant invention is used in mobile phones employing the Symbian Operating System, this "operating layer" is inherently included in the Symbian OS. The Randall patent (Assigned to Symbian Software Ltd.) which utilizes the Symbian OS (which provides "robust and advanced applications", see column 2) teaches downloading both ringtones and graphics/animations to a mobile phone (see column 9, lines 1-12) which may be used for incoming call processes and the exchange of information between the calling parties (which would be the recited "phone server application"). Torvinen also teaches a mobile terminal 202 capable of downloading information, where the mobile terminal is equipped with a "Series 60" software framework used in conjunction with the Symbian OS (see column 6, lines 51-67). Therefore, as the Symbian OS is capable of downloading ringtones and animations and providing the graphic displays and ringtones before the call is answered, and includes an "operating layer", it would have been obvious to modify Kawashima (as modified by Prentice) with the Symbian OS of Randall or Torvinen, in order to store "background" and "reading" applications at the "operating layer", in order to provide ringtone and display information before a call is answered, as is conventional.

Regarding claims 25-27, which recite features substantially similar to claim 24, see the rejection of claim 24.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima, Prentice and either one of Randall or Torvinen, as applied to claim 4 above, and further in view of U.S. Patent 7,139,551 to Jamadagni (hereinafter "Jamadagni").

Regarding claim 5, which recites "wherein the downloaded data also comprises one or more configuration files", Jamadagni teaches downloading software components to a mobile terminal. Jamadagni teaches in column 12, lines 13-15, that configuration files are stored in "download cache 20" within the mobile phone. Therefore, as Jamadagni teaches the conventionality of downloading and storing configuration files, it would have been obvious to one of ordinary skill to modify Kawashima (as modified above) with this ability, in order to configure devices based on other downloaded software applications (such as ringtones etc.), as is conventional.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN KELLEY whose telephone number is (571) 272-5652. The examiner can normally be reached on Monday-Friday, 9AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SSK/

/LESTER KINCAID/

Supervisory Patent Examiner, Art Unit 2617